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June 23, 2020

VIA ECF AND EMAIL

Hon. James L. Garrity, Jr.
U.S. Bankruptcy Court
One Bowling Green
New York, NY 10004

Re: *In re Orly Genger*, Case No. 19-13895-JLG

Dear Judge Garrity:

On behalf of our law firm Kasowitz Benson Torres LLP (KBT), a creditor in this bankruptcy, we write in response to Mr. Dellaportas' letter sent yesterday on behalf of Sagi Genger concerning today's discovery conference with the Court (Dkt. No. 268).

Mr. Dellaportas mistakenly claims that KBT and Eric Herschmann, a KBT partner, failed to interpose objections to his discovery demands within the time prescribed by Rule 45. Rule 45 does not apply. He served KBT and Herschmann with discovery notices governed by Rule 34 and Local Rule 7034-1, not subpoenas subject to Rule 45 time limits. The time for KBT and Herschmann to object has not yet expired.

More to the point, his complaint that we did not "commit" to produce documents and appear for depositions is also incorrect. We previously agreed to produce responsive documents, and Mr. Dellaportas tried to unilaterally impose a deadline within which to conclude our meet and confer. He should have communicated with us cooperatively instead of unilaterally terminating discussions. Whether he cooperates with us or not, we will nonetheless work out the logistics and timing, but these details – normally resolved by counsel – need not detain the Court. Both KBT and Mr. Herschmann will appear for their depositions – indeed, KBT has already been deposed in an earlier related judgment enforcement proceeding and Herschmann agreed to be deposed, which he said in the very email Mr. Dellaportas quotes in his letter.

One final matter: while Mr. Dellaportas will be deposing these lawyers, Mr. Dellaportas himself refused to honor a subpoena served on him seeking nonprivileged information about his role as scrivener and coordinator for various third-parties, including Dalia Genger and the Orly Genger Trust and related entities created by that Trust or its trustees. Mr. Dellaportas firmly stated that he will not comply with the subpoena because he did not receive a check for the

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witness fee, he objects to the manner of service, and the subpoena was not in his view appropriately signed, Covid-19 restrictions notwithstanding. We would like to discuss this matter with the Court today, time permitting.

Respectfully submitted,

/s/ Michael Paul Bowen

CC: All Counsel of Record (via email)